

United States Court Of Appeals For The Sixth Circuit

CJA Form 20 Submission Instructions

TO INSURE PROPER SUBMISSION OF YOUR CLAIM, FOLLOW THESE INSTRUCTIONS CAREFULLY. IT IS IMPERATIVE THAT ALL NECESSARY SUPPORTING MEMORANDA, RECEIPTS AND OTHER DOCUMENTS BE ATTACHED TO THE CJA FORM 20 UPON SUBMISSION FOR PAYMENT. IF YOU HAVE ANY QUESTIONS, CONTACT THE COURT OF APPEALS CJA DEPUTY AT (513) 564-7000. PLEASE REVIEW THESE INSTRUCTIONS BEFORE INCURRING TIME AND EXPENSES WHICH MAY NOT BE REIMBURSABLE UNDER THE CRIMINAL JUSTICE ACT.

TABLE OF CONTENTS

A.	Forms	D.5	Communications
B.	Submitting Claim	D.6	Copying and Printing Services
C.	Voucher Numbers	D.7	Miscellaneous Expenses not Covered
D.	Reimbursable Expenses	E.	Reimbursement for Attorney Time
D.1.	Transportation	E.1.	\$750 Maximum
D.2.	Meals and Lodging	E.2.	\$2,500 Maximum
D.3.	Legal Research Assistance	F.	Writ of Certiorari
D.4.	Overhead	G.	Interim Payments
		H.	Substitution of Counsel

A. FORM. THE CJA FORM 20, APPOINTMENT OF AND AUTHORITY TO PAY COURT APPOINTED COUNSEL, (CJA Form 20) issued to counsel by this Court should be used to apply for compensation for services provided pursuant to 18 U.S.C. § 3006A, Criminal Justice Act (the Act). Counsel should read and follow the instructions contained on the cover sheet of that document.

B. SUBMITTING CLAIM. Unless good cause for delay is shown, claims for fees and expenses should be submitted within 45 day after final judgment has been entered. However, the form should not be submitted until the Court has denied any pending motion for reconsideration or until any petition for certiorari has been filed. See 6th Cir. R. 101(g).

When you have completed the CJA Form 20 in accordance with these instructions, sign and date it and return it to:

CJA Deputy
United States Court Of Appeals For The Sixth Circuit
532 Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202-3988

The Court will notify you of its disposition concerning your claim. Payment will be mailed from the Administrative Office of the U.S. Courts in Washington, D.C..

C. VOUCHER NUMBERS. Only one CJA Form 20 voucher number will be assigned to each attorney handling a particular representation. If more than one attorney works on a case, each attorney will receive both a separate CJA Form 20 and a different voucher number. If there is an interim payment or other reason necessitating the use of more than one CJA form 20, each new form issued must display the original attorney's voucher number.

D. REIMBURSABLE EXPENSES. Counsel's expenses should be listed in § 19 of CJA Form 20. It may be necessary to itemize expenses on a separate sheet of paper and enter the totals in § 19. Each section below explains what types of expenses may be reimbursed and gives examples of how these should be listed and documented. (The amounts shown in the examples provided are used solely for illustration.)

1. Transportation

The act provides for reimbursement for actual expenses incurred in traveling to and from the Court for Oral Argument. Items covered include air fare, airport limousine fees, taxi fees, baggage transfer charges, tips, and when an automobile is used, mileage, parking fees and tolls. **Currently, travel funds are not available for other purposes, such as visiting the client (prisoner).**

Automobile travel is reimbursed on the basis of actual mileage at the current government rate of 31¢ per mile. Automobile trips to the airport are considered reimbursable and are calculated in the same manner as other automobile travel. When a third party takes counsel to and from the airport, two round trips may be reimbursed.

A Government Travel Account (GTA) has been established for the purpose of providing a vehicle for CJA appointed attorneys to obtain government rate airfare. Attorneys must now utilize the services of National Travel Services (NTS) to obtain airline reservations as well as hotel accommodations to assure more favorable government rates are received. When a case is scheduled for Oral Argument, a travel authorization will be issued authorizing the attorney to contact NTS to book airfare at the prevailing government rate. Airfare will be paid directly by the Court. Counsel should be aware that the Court will make reimbursements for airfares other than through NTS, but only up to the rate which could have been obtained through NTS.

Any unused tickets must be returned to the Circuit Clerk's Office.

Where possible, original receipts should be submitted as documentation for actual travel expenses. This includes the tissue original of the airline ticket, and for trips booked through NTS, a copy of the travel authorization letter. Airfare should be listed on the voucher only if the trip was booked other than through NTS. Where receipts are unavailable, such as for tips or tolls, an itemized list indicating the type of charge and amount is usually acceptable. When Counsel takes an indirect route or interrupts his or her travel for reasons of personal convenience, he or she must bear the extra expense incurred. Expenses of family members traveling with counsel are not reimbursable under the Act.

EXAMPLES, ITEMIZATION OF TRAVEL EXPENSES

1/6/99	Airport parking fee (receipt attached)	\$4.75
1/6/99	Mileage to and from airport, 14 miles at 31¢ per mile	\$4.34
1/6/99	Airport Limousine Service, Cincinnati	\$8.00

2. Meals And Lodging

Actual expenses for meals and lodging, up to a maximum of \$114.00 per day, but in no event exceeding \$40 per day for meals alone, will be reimbursed when counsel travels to Court for Oral Argument providing that those expenses are supported with proper documentation. However, such a trip must entail travel from beyond the Cincinnati metropolitan area. Furthermore, expenses for meals will be reimbursed only if counsel requires overnight accommodations.

Hotel accommodations booked through NTS will be charged to the attorney for later reimbursement within the limitations established for expenses. Reimbursement will be made at the time the CJA 20 voucher is submitted and approved for payment.

Documentation for lodging requires the original hotel/motel bill. Meals, up to two per day, must be itemized by listing the meal, name of the restaurant and actual cost. Counsel's family members are not covered by the Act; therefore if family members are staying with counsel, the bill for lodging should reflect the cost of one person staying in the room and the additional amount should be deducted from counsel's claim for expenses.

EXAMPLES, ITEMIZATION OF MEAL AND LODGING EXPENSES

1/5/99	One night's lodging, The Crowne Plaza (Original Bill Attached)	\$75.00
1/5/99	Dinner, LaNormandie Restaurant	\$20.00
1/5/99	Breakfast, Arby's Restaurant	\$ 5.95

3. Legal Research Assistance

Computer Assisted Legal Research (CALR) may be reimbursed as an out-of-pocket expense, provided it does not exceed the amount for which counsel would have been reimbursed had the same research been performed manually. When claiming such reimbursement, counsel should submit an affidavit containing a list of the issues researched, an estimate of the number of hours required to perform the research manually, and the actual cost of the CALR. The smaller amount should be requested. The affidavit should also include the explanation of how the CALR billing was done and a cost itemization of the billing.

CALR performed by a service, other than the appointed counsel, must be approved by the Court in advance. Such approval is sought by filing a motion supported by a memorandum containing the same information as required by the affidavit discussed in the previous paragraph, except that the cost of the CALR must be estimated. As with CALR performed by appointed counsel, the actual cost of the CALR should be compared to the estimated costs of performing the research manually, and the smaller amount should be requested.

Research performed by law students and law clerks will be reimbursed on the same basis as the CALR discussed above. The same documentation should be submitted; however, advance court approval is not necessary. Expenses of law students and law clerks (such as meals) cannot be reimbursed under the Act.

4. Overhead

Office overhead, such as rent, utilities, secretarial services, etc., is generally considered part of an attorney's fee; therefore, such expenses are not reimbursed under the Act even though, for example, a secretary must be hired specifically to perform work on this assignment. In extremely rare instances, office overhead may be reimbursed for an unusual expenditure which would normally be charged to a paying client (such as a particular book which is purchased solely for use in the representation of one client). Reimbursement for this type of expense must be approved in advance of the expenditure and by motion before the Court. Such a motion should be supported by a memorandum describing the unusual expenditure and explaining why it should not be treated as part of office overhead.

5. Communications

Long distance telephone calls may be reimbursed where it is determined that the calls were reasonable and necessary for proper handling of the case, except that the cost of telephone calls to the client will be

reimbursed only where they have been authorized by the court in advance. In any event, funds are not available to cover either counsel's time or expenses for more than **three** telephone conferences with the client. Requests for reimbursement of such expenses should be submitted in the form of an itemized list indicating the date of each call, the charge for the call and the purpose of the call.

Postage is also considered a reimbursable expense and should be submitted as a lump sum charge showing total items mailed and total postage required. A certified mail charge may also be reimbursed, where certified mail was required for the service of a particular document. Certified mail charges should be listed separately, indicating the number of documents, charge for certification and reason for using certified mail.

You should be aware that the court strongly disfavors the use of expedited U.S. mail or private courier services. Papers should be sent to the court via regular U.S. Mail; keep in mind that briefs and appendices are deemed filed when placed in the mail, so that actual receipt after the due date will not prejudice the filing of those documents which were mailed in time. Even if you choose a more expensive delivery option, however, **you will be reimbursed only the cost of regular U.S. Mail.** Charges for special deliveries and communications, such as express mail, courier services and telegrams, will be allowed on rare occasions where it can be demonstrated that such services were necessary and could not be avoided. Counsel requesting reimbursement for this type of service must justify the need for using the service. Dilatory conduct of counsel is not a justifiable reason for reimbursing such services.

**EXAMPLES, ITEMIZATION OF CHARGES FOR
TELEPHONE AND POSTAGE**

1/3/99	Telephone Call to the Court of Appeals re: Oral argument scheduling	\$1.29
1/3/99	Ten Letters re: Total Postage	\$3.30

6. Copying and Printing Services

The actual cost of copying briefs, the joint appendix or other documents will be reimbursed at a reasonable rate, however, any claim for document reproduction expenses in excess of \$500 must be approved in advance by the Court. Counsel should submit a list which indicates the type of document copied, the number of pages, the cost per page, the number of copies and the total cost. If copying is done by an agency (such as a quick print service), counsel should also submit the original receipt.

Copying expenses for services provided by a vendor who specializes in brief and joint appendix preparation will be paid directly by the Court, at a rate not to exceed 18 cents per page, if counsel sends a letter to the CJA Deputy verifying that the document(s) was prepared to counsel's satisfaction, and submitting the original receipt. These copying expenses should be omitted from the final voucher submitted which reflects counsel's out-of-pocket expenditures.

Charges for standard typographic printing of documents cannot be reimbursed under the Act, regardless of the process used.

EXAMPLES, LISTING OF COPYING CHARGES

--	Appellants Brief - 10 copies (27 pages per copy @ 10 Cents per page)	\$27.00
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7. Miscellaneous Expenses Not Covered

Filing Fees - Because counsel represents a client who has been granted pauper status by the Court, filing fees are not required. Therefore, counsel should not advance and pay these fees, and any fees so advanced and paid will not be reimbursed under the Act.

Transcript - Payment for reproduction of the transcript in this type of representation is the responsibility of the government; therefore, as with filing fees, counsel should not pay this expense. Court reporters may present their claims directly to the government on a special court form designed for this purpose.

Personal Expenses of Client - Expenses for personal items, such as clothing, meals or haircuts, and services, such as charges for the disposition of personal property, cannot be reimbursed under the Act.

Guardian ad Litem - Fees for and expenses of a *guardian ad litem* are not covered under the Act.

E. REIMBURSEMENT FOR ATTORNEY TIME. Attorney time for work performed on or after January 1, 1996 is reimbursed at the rate of \$65 per hour for time in Court and \$45 per hour for other time reasonably expended in working on the case. For work performed prior to 1/1/96, the hourly rates are \$60/\$40 per hour, respectively. Time spent waiting for Oral Argument is not considered time in Court and is reimbursed at the lower rate. One hour is generally allotted to in-Court time (at the higher rate) for Oral Argument in the Court of Appeals. The Judicial Conference of the United States has approved an alternative rate for the Detroit area, therefore reimbursement will be made at the rate of \$75 per hour for both in and out of Court time if either the case arose from the District Court in Detroit or the principal office is located in the City of Detroit. Attorney time should be reported in quarters of hours.

Reasonable and necessary travel time actually spent in transit may be compensated under the Act, but travel time to and from Court for the place where the service was rendered may not be claimed as attorney time if the round-trip time is less than one hour. Documentation of attorney hours depends upon the amount claimed and the maximum amount allowable for a particular type of case. Where “lump sum” listings are permitted, they should be entered on CJA Form 20, § 19. When itemizations are required as explained below, they should be attached and the total entered on the corresponding lines of CJA Form 20.

1. \$750 MAXIMUM

Representation in connection with a post-trial motion made after the entry of judgment, a probation, revocation proceeding, a parole revocation proceeding, or a proceeding to seek relief under 28 USC §2241, §2254, §2255, or 18 USC § 4245 is subject to a maximum compensation of \$750 for attorney time. Claims for attorney time totaling less than the maximum may be divided into the various categories as a series of lump sums for legal services rendered under those categories.

In some instances where counsel can demonstrate that the case was extended or complex, the Court may approve reimbursement for attorney time in excess of the maximum. However, if more than the maximum is claimed, counsel must provide a complete itemization of services, listed chronologically. The listing should show the date the service was rendered, the number of hours spent (broken down into quarter hours) and the type of service provided. The information must be attached to the CJA Form 20 with totals for each category entered on the appropriate line of § 19 (see examples below). In this instance, counsel must also submit a motion for additional fee by demonstrating that the case was extended or complex and that the excess payment is necessary in order to provide fair compensation.

TO SUPPLEMENT THIS MOTION, COUNSEL SEEKING COMPENSATION BEYOND THE STATUTORY MAXIMUM MUST SUBMIT A NARRATIVE STATEMENT OUTLINING THE TIME SPENT, THE REASONS FOR THE TIME SPENT, AND THE ACTIVITIES COVERED IN THAT TIME, SO THAT THE COURT MAY DETERMINE THE EXTENT OR THE COMPLEX NATURE OF THE CASE WHICH WARRANTS THE ADDITIONAL COMPENSATION REQUESTED.

2. \$2,500 MAXIMUM

Other representation, including civil contempt proceedings, is subject to a maximum compensation of \$2,500 for attorney time. Counsel must provide a complete itemization of services, listed chronologically. The listing should show the date the service was rendered, the number of hours spent (broken down by quarter hours) and the type of service provided.

In some instances where counsel can demonstrate that the case was extended or complex, the Court may approve reimbursement for attorney time in excess of the maximum. However, if more than the maximum is claimed, counsel must not only supply the above documentation but must also submit a motion for additional compensation, supported by a memorandum justifying the additional fee by demonstrating that the case was extended or complex and that the excess payment is necessary in order to provide fair compensation.

TO SUPPLEMENT THIS MOTION, COUNSEL SEEKING COMPENSATION BEYOND THE STATUTORY MAXIMUM MUST SUBMIT A NARRATIVE STATEMENT OUTLINING TIME SPENT, THE REASONS FOR THE TIME SPENT, AND THE ACTIVITIES COVERED IN THAT TIME, SO THAT THE COURT MAY DETERMINE THE EXTENT OR THE COMPLEX NATURE OF THE CASE WHICH WARRANTS THE ADDITIONAL COMPENSATION REQUIRED.

F. INTERIM PAYMENTS. In some extraordinary cases, interim payments may be made to cover out-of-pocket expenses which have already been advanced by counsel. Interim payments are never made for attorney time. Counsel should seek such reimbursement by filing a motion supported by a memorandum which lists the expense in the same manner as it would be on the CJA Form 20 and demonstrates the need for such interim payment.

G. SUBSTITUTION OF COUNSEL. If an attorney is substituted for an attorney previously appointed for a defendant in the same case, the total compensation which may be paid both attorneys shall not exceed the statutory maximum for one defendant, unless the case involves extended or complex representation. In such cases, vouchers for attorney's services shall not be approved by a judicial officer until the conclusion of the case so that the judicial officer may make such appointment between the attorneys as may be just.

H. WRIT OF CERTIORARI. Sixth Circuit Rule 101(g) requires counsel appointed under the Criminal Justice Act to file a petition for writ of certiorari, if the client requests it and if, in counsel's considered judgment, there are grounds for seeking Supreme Court Review.

Time For Filing The petition must be filed within ninety (90) days of the entry of judgment in the Court of Appeals. If a petition for rehearing is timely filed, the time runs from the date of the denial of that petition. Time for filing does not run from the issuance of the mandate.

Filing Fee A docket fee of \$300, or a motion for leave to proceed *in forma pauperis*, with appropriate affidavit, must accompany the petition.

Form Of Petition On 8½ x 11 paper

Number of Copies Original Petition plus 10 Copies

Supreme Court Rules The rules of the United States Supreme Court are contained in Title 28 of the United States Code.

Other Information

Specific information may be obtained from:

Clerk of the Supreme Court of the United States

One First Street, N.W.

Washington, D.C. 20543

Telephone: (202)479-3000

Office Hours are 9:00 a.m. to 5:00 p.m., Monday - Friday

Expenses.

Time and expenses in connection with the filing of a petition for writ of certiorari should be included on the CJA Form 20 submitted to the Court of Appeals.